

DEFENDING UNFAIR DISMISSAL CLAIMS IN EMPLOYMENT TRIBUNALS

Background

This document sets out general information for employers about the costs of defending employment tribunal claims brought by employees and/or workers.

Factors affecting legal costs

Like most disputes, each employment tribunal claim has its own unique set of background facts, with the result that claims tend to fall into a wide spectrum in terms of difficulty.

Not surprisingly, perhaps, the more difficult claims are the more likely they will lead to longer employment tribunal hearings and, as a result, increased costs.

It is usually the case, therefore, that once an employment tribunal has allocated a set number of hearing days for a particular case, then we are able to “firm up” on any previous fee estimates including the costs of Counsel if they are to be instructed to conduct the hearing.

Charging for our services

We normally charge based on the time spent and hourly rates. Occasionally, however, we may agree a fixed or capped fee for undertaking a specific task.

Filor Solicitors is a sole practitioner law firm and, as such, you will always have a partner level service led by Chris Filor, who is a practising solicitor with 24 years post qualification.

Our standard hourly rate is £200 per hour plus VAT. If however in our opinion, a particular matter is straightforward then we may agree a slightly lower rate of between £170 and £200 per hour plus VAT. VAT is currently payable at 20%.

Sometimes we will also incur disbursements on your behalf. Disbursements are item of expense which we pay to third parties on your behalf in connection with defending your claim. Disbursements include things like Counsel's fees, special delivery postage charges and photocopying. In most cases VAT will also be charged on any disbursements.

Fees – an approximate guide

ACTION	ESTIMATED TIMESCALE
Being briefed (meetings and telephone conversations) regarding the background to any claim and reviewing all relevant documents	1 week
Advising on merits, potential range of damages, procedure and strategy	1 week
Drafting and filing of a defence; corresponding with the claimant's solicitors and the employment tribunal	1-4 weeks (NB: employers usually have 28 days in which to file a defence on receipt of the issued claim) The tribunal form ET2 normally specifies the actual last date for filing a defence.
Preparing for and dealing with disclosure of relevant documents	4 weeks
Drafting and exchange of witness statements	4 weeks
Preparing for and representation at a tribunal hearing including paginated tribunal bundles	4 weeks

Nature of tribunal claims

For relatively straightforward (e.g. a one day hearing) unfair or wrongful dismissal fees would be in the region of £4,000 to £5,000 plus VAT (£4,800 to £6,000 including VAT) which excludes Counsel's fees.

Counsel's fees vary depending on the level of seniority. Typically, however, junior Counsel would probably only be needed for a straightforward hearing. For newly qualified Counsel fees start from around £1,000 plus VAT (£1,200 including VAT) depending on location, and the number of years' seniority for a one day hearing.

Any appeal against a successfully defended employment tribunal claim would incur additional fees.

With regards to more difficult claims, there can be a number of factors that affect its complexity. These include how many different heads of claim are being brought; what statutory defences there may be to those claims; the number of witnesses being called, and the number of documents that need to be adduced in evidence.

Our fees for the defence of more difficult unfair dismissal or wrongful dismissal claims would be in the region of £6,000 to £12,000 plus VAT (£7,200 to £14,400 including VAT) which excludes Counsel's fees.

So taking the two examples above, £6,000 plus VAT would equate to a 2 day hearing whilst £12,000 plus VAT would be more indicative for a 5 day hearing. Hearings longer than 5 days would incur additional fees.

Counsel charge a 'brief fee', which covers preparation and the first day of the hearing. This may be anything from £1,000 plus VAT (£1,200 including VAT) upwards. The more complex the claim the higher the brief fee as more preparation will be required. Further fees (known as 'refresher fees') are then payable for each additional day of the hearing. These can range from £1,000 to £3,000 plus VAT (£1,200 to £3,600 including VAT) per additional day.

Other potential costs and expenses

Our fees do not include any miscellaneous disbursements and charges that we may incur on your behalf (e.g. court fees if it was a civil court claim), expert fees, Counsel's fees, travel expenses such as taxi, train and plane fares).

Photocopying is charged at £0.20 plus VAT (£0.24 including VAT) for both black/white and colour copies.

We generally do not charge for travel time but reserve the right to do so in appropriate cases. Mileage charges are £0.45 per mile plus VAT (£0.54 per mile including VAT).

Any other one-off disbursements (for example a need for an expert's report) will be discussed with you before any costs are incurred.

Recovery of legal costs

It is extremely rare (save for exceptional cases) for a party who successfully defends an employment tribunal claim to then be awarded their legal costs. An example where a tribunal might award costs is where a claimant is found to have conducted their case dishonestly and/or vexatiously.

Complaints

If at any time you are not happy with the service we are providing, or something goes wrong, then please let us know so we can try and put things right.

Our complaints procedure is set out in our Terms of Business.